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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/526,001	03/16/2005	Katsumi Matsumoto	11A 3689 PCT	9585
3713 7590 01/11/2007 KODA & ANDROLIA 2029 CENTURY PARK EAST SUITE 1140 LOS ANGELES, CA 90067			EXAMINER MORAN, KATHERINE M	
			ART UNIT	PAPER NUMBER
			3765	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		01/11/2007	PAPER	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

10/526,001

Applicant(s)

MATSUMOTO ET AL.

Examiner

Katherine Moran

Art Unit

3765

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 10/19, 10/20/06.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-3, 10-22 and 24-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 10-22 and 24-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 2/25, 3/29 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

Applicant's response of 10/19/2006 and supplemental response of 10/20/2006 have been received and considered. The response of 10/19 cancelled claim 23, amended claims 1, and 11-22, and added new claims 24-27. The response of 10/20 added new claim 28. Claims 1-3, 10-22, and 24-28 are pending.

### ***Drawings***

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the eye cup portion provided with holes on its both sides and the belt provided with projections corresponding to the holes must be shown or the features canceled from claims 14, 16, and 18. No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an

application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Objections***

2. Claim 2 is objected to because of the following informalities: claim 2 recites "wherein a back portion of the belt....". However, the goggles were previously recited as including a pair of belts. Claim 26: "hardness" should be changed to --hardnesses--. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 24 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 24 recites "such as". Accordingly, it is not clear if the limitations following "such as" are part of the claimed invention. The Markush claim format used in claim 25 should also be used in claim 24.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1, 24, 25 and 28 is rejected under 35 U.S.C. 102(b) as being anticipated by Rhoades et al. (U.S. 6,247,811). Rhoades discloses the invention as claimed. Rhoades teaches a pair of swimming goggles 100 comprising an eye cup portion 103 for protecting eyes of a user and a pair of belts 104 respectively connected to the eye cup portion, and wherein a connecting/disconnecting mechanism 143 is provided on the belts for connecting and disconnecting the pair of belts together, and the connecting/disconnecting mechanism is used when the user puts the goggles on and off his/her head. Mechanism 143 could be considered as a one-touch buckle-type of hook-type since it includes interconnecting portions. Regarding claim 28, the entire length of the pair of belts is predetermined by adjusting a length of the pair of belts between the connecting/disconnecting mechanism and the eyecup portion. This is a functional recitation which can be performed by the wearer.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1, 11, and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tsubooka et al. (Tsubooka, U.S. 6,460,196) in view of Huang (U.S. 5,706,526).

Tsubooka discloses the invention substantially as claimed. Tsubooka teaches a pair of swimming goggles 1 comprising an eye cup portion 1 for protecting the user's eyes, and a belt 2 which is connected to the eye cup portion. The eye cup portion 1 is provided with projections 11B on both sides and the belt includes corresponding holes 12A so that the belt and eye cups can be connected together. However, Tsubooka does not teach a pair of belts respectively connected to the eye cup portion, with a connecting/disconnecting mechanism provided on the pair of belts for connecting and disconnecting the pair of belts together. Huang teaches goggles with a pair of belts 22 or 23, with a connecting/disconnecting mechanism 3 or 5 for connecting and disconnecting the pair of belts together. This arrangement allows for individual adjustment of each belt for customized fit to the wearer's head. Therefore, it would have been obvious to provide Fukasawa with the pair of belts connecting by a mechanism as taught by Huang, so that each belt may be individually adjusted.

9. Claims 2, 13, and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tsubooka in view of Huang as applied to claim 1 above, and further in view of Lutz (U.S. 5,611,644). Tsubooka discloses the invention substantially as claimed. However, Tsubooka doesn't teach that a back portion of the belt which fits to the user's occipital region is made wider and side portions of the belt which fit to the user's temporal region

are made narrower. Lutz teaches goggles with a strap 16 having a back belt portion 32 made wider and side belt portions 34 made narrower as shown in Figure 1. The wider portion provides a larger surface area to interface with the wearer's head, thus providing a larger frictional surface area. The narrower side belt portions do not cover the wearer's ears. Therefore, it would have been obvious to form Tsubooka's belt with wider back portions and narrower side portions in order to provide an improved wearing configuration for the goggles.

10. Claims 3, 15, 16, 19, 21, 26, and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tsubooka in view of Huang as applied to claim 1 above, and further in view of Onondera et al. (Onondera, U.S. 5,708,491). Tsubooka discloses the invention substantially as claimed. However, Tsubooka doesn't teach the belt has a hard portion and a soft portion and a connected area of the belt with holes, with the eye cup portion is formed with the hard portion. Tsubooka also doesn't teach that the hard and soft portions are made from the same material but have different hardnesses. Onondera teaches a temple belt portion (Figure 1) made from the same elastomeric material, wherein the connecting area of the belt portion is formed from a hard material and a distal end of the temple belt is a soft portion. Column 2, lines 22-67 teach that the soft portion is more comfortable for the wearer's head and the hard portion is more durable. Therefore, it would have been obvious to provide Tsubooka's belt portion with the belt having different hardnesses in order to provide a more durable belt portion in the areas of high stress and a more flexible belt portion where the belt is susceptible to stretching.

11. Claims 10, 17, 18, and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tsubooka in view of Huang and Lutz as applied to claim 2 above, and further in view of Onondera '491 as discussed above.

### ***Response to Arguments***

12. Applicant's arguments with respect to claims 1-3 and 10-22 have been considered but are moot in view of the new ground(s) of rejection necessitated by Applicant's amendment.

### ***Conclusion***

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.



Any inquiry concerning this communication or earlier communications should be directed to Primary Examiner Katherine Moran at (571) 272-4990. The examiner can be reached on Monday-Thursday from 8:30 am to 6:00 pm, and alternating Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Welch, may be reached at (571) 272-4996. The official and after final fax number for the organization where this application is assigned is (571) 273-8300. General information regarding this application may be obtained by contacting the Group Receptionist at (571) 272-3700.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Kmm

January 4, 2007



Katherine Moran

Primary Examiner, AU 3765